

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT  
NASHVILLE, TENNESSEE**

**IN RE:**

**June 6, 2003**

**JOINT PETITION OF DIGITAL TELEPORT, INC. AND  
CENTURYTEL FIBER COMPANY II, LLC FOR  
APPROVAL OF THE ASSIGNMENT OF ASSETS AND  
AUTHORIZATION TO PROVIDE  
TELECOMMUNICATIONS SERVICE**

**DOCKET NO.  
03-00259**

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**ORDER APPROVING JOINT PETITION**

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This matter came before Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "TRA" or "Authority"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on May 12, 2003 for consideration of the Joint Petition filed by Digital Teleport, Inc. ("DTI") and CenturyTel Fiber Company II, LLC ("CTF II" and collectively the "Petitioners") for TRA approval required by Tenn. Code Ann. § 65-4-113(a) & (b) to transfer the authority to provide telecommunications services.

**Tenn. Code Ann. § 65-4-113**

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain TRA approval to transfer its authority to provide utility services (also known as a "certificate of public convenience and necessity" or "CCN"). Tenn. Code Ann. § 65-4-113(a) reads as follows:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

### **The Joint Petition**

In the Joint Petition, which was filed on April 8, 2003, the Petitioners outline the plans for CTF II's acquisition of all DTI's core domestic telecommunications assets. This transaction arises out of the bankruptcy of DTI and was approved by the United States Bankruptcy Court in an order issued on February 13, 2003.<sup>1</sup> The acquisition includes DTI's CCN to provide local exchange telecommunications services, granted by the TRA on March 2, 1999 in Docket No. 98-00643, as well as the Tennessee customers served by DTI pursuant to that CCN. The Petitioners are seeking TRA approval of the transfer of this CCN.

DTI is a wholly-owned subsidiary of DTI Holdings, Inc., providing only wholesale fiber optic transport services in the state of Tennessee. In pursuance of its plan to build a national long-haul transmission network, DTI purchased a nationwide network of dark

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<sup>1</sup> *In re Digital Teleport, Inc., Order Approving Asset Purchase Agreement with CenturyTel Fiber Company II, LLC and Authorizing Sale of Assets Free and Clear of Liens, Interests, and Encumbrances; And Approving Assignment of Certain Executory Contracts and Unexpired Leases Pursuant to Sections 363 and 365 of the Bankruptcy Code*, Case No. 01-54369-399 (Bankr. E.D. Mo. Feb. 13, 2003).

fiber but ran out of funding before completing the project and was required to file for bankruptcy. CTF II is purchasing the core domestic telecommunications assets of DTI according to the requirements of the Bankruptcy Code and intends to continue providing services to DTI's customers.

CTF II is a wholly-owned subsidiary of CenturyTel, Inc., recently formed for the purposes of this transaction. CenturyTel, Inc. is also the parent company of three incumbent local exchange carriers currently providing telecommunications services in Tennessee and is the eighth largest local exchange company in the United States, based on the number of total access lines, with annual revenues of approximately two billion dollars. Many of DTI's managerial and technical personnel will be retained to oversee daily operations, and the financial and technical expertise of CenturyTel, Inc. will be available to CTF II through the active involvement of CenturyTel's senior management.

According to the Joint Petition, the transaction will serve the public interest by safeguarding competition and by preventing any disruption in services, which might otherwise result from DTI's current financial situation. As all DTI customers receive services pursuant to contract, these contracts will be assigned to CTF II and service will continue according to the specified rates. All customers were notified of the proposed transaction via first-class mail on January 24, 2003.<sup>2</sup>

#### **The May 12, 2003 Authority Conference**

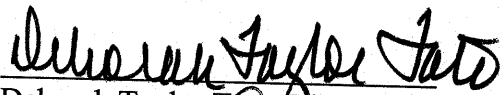
At the May 12, 2003 Authority Conference, the Directors voted unanimously to approve the Joint Petition for transfer of DTI's CCN to CTF II.

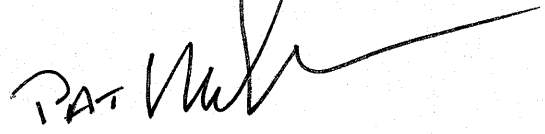
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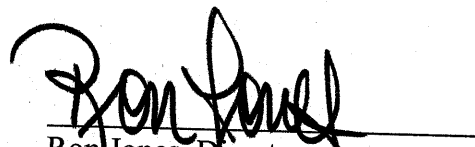
<sup>2</sup> Because no telecommunications services were provided to end-use customers in Tennessee, the Petitioners did not submit a customer notification letter for the TRA's approval pursuant to TRA Rule 1220-4-2-.56(2)(d)(2).

**IT IS THEREFORE ORDERED THAT:**

The Joint Petition of Digital Teleport, Inc. and CenturyTel Fiber Company II, LLC for transfer of authority to provide telecommunications services in Tennessee as described herein is approved.

  
Deborah Taylor Tate, Director

  
Pat Miller, Director

  
Ron Jones, Director